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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAN ROUVEN FUECHTENER,

Defendant.

Case No. 2:16-cr-00100-GMN-CWH

**GOVERNMENT'S MOTION TO
EXCLUDE ALIBI DEFENSE**

COMES NOW the United States of America, by and through DANIEL G. BOGDEN, United States Attorney, and ELHAM ROOHANI and LISA CARTIER-GIROUX, Assistant United States Attorneys, and files this motion to exclude any alibi defense.

Under the commentary to Rule 12.1, the Government's notice of alibi demand triggers the Defendant's duty to inform the Government of his intention to rely upon the defense of alibi. Fed. R. Crim. P. 12.1 (Notes of Committee on the Judiciary, House Report No. 94-247; 1975 Amendment). Once the Government receives a response, then the Government must advise the defendant of the specific time, date, and place at which the offense is alleged

1 to have been committed. *See* Fed. R. Crim. P. 12.1 (commentary).

2 In its Government Disclosure Statement, and on May 13 and 31, 2016, the
3 Government made demands for notice of an alibi defense under Fed. R. Crim. P. 12.1. The
4 morning of Calendar Call, the Defendant indicated an intent to rely on an alibi defense. The
5 same day, the undersigned sent a detailed demand advising the Defendant of the specific
6 time, date, and place at which the offense is alleged to have been committed. On October
7 13, 2016, defense counsel indicated that the Defendant does not intend to rely on an alibi
8 defense. However, the Government files this motion out of an abundance of caution based
9 on the Defendant's witness and exhibit list.

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11 As the Defendant has disavowed any alibi defense, the Court should exclude any
12 evidence or witness testimony to support an alibi defense.

13 Respectfully submitted this 14th day of October, 2016.

14 DANIEL G. BOGDEN
15 United States Attorney

16 /s/

17 ELHAM ROOHANI
18 LISA CARTIER-GIROUX
19 Assistant United States Attorneys
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